

REMARKS

In the Final Office Action mailed 10 September 2007, the examiner maintains all previously cited rejections. Particularly, the examiner rejects independent claims 1 and 14 as obvious under §103 over Kumar (US6434367) in view of Nobukiyo (US6993294), and rejects independent claims 25 and 39 as obvious under §103 over Kumar in view of Nobukiyo and Chaponniere (US6937584). In response, the applicants offer the following remarks.

The obviousness rejection cited against claims 1 and 14 is legally insufficient because it relies on the erroneous interpretation that Kumar's transmission of pilot strength measurement messages (PSMMs) is equivalent to the claimed transmission of a pilot signal from a mobile station to one or more remote transceivers. The PSMM of Kumar is a message that reports the strength of a pilot signal transmitted by the base station and received at the mobile station. No one skilled in the art would equate the transmission of such a PSMM with the claimed transmission of a pilot signal from a mobile station. Particularly, the fact that Kumar explains that the PSMM is transmitted from the mobile station based on measuring the strength of a pilot signal received at the mobile station self-evidently means that the PSMM is not the same as a pilot signal transmitted by the mobile station. Thus, the examiner has engaged in an illegal, overbroad construction of the applicants' claim terms to draw this equivalence. For at least this reason, Kumar fails to provide the teachings on which the §103 rejection fundamentally depends, and the examiner will not be able to maintain the §103 rejection on appeal for this error alone.

The obviousness rejection cited against claims 1 and 14 is also legally insufficient because it relies on the erroneous interpretation that Kumar teaches the claimed limitation of "transmitting one or more traffic channel signals from the mobile station at one or more power gains directly or indirectly relative to the transmit power of the pilot signal." Nothing in Kumar supports this position. In fact, nothing in Kumar provides any indication that a reverse link traffic

channel signal is transmitted at a power gain related to the transmit power of a reverse link pilot signal. At best, Kumar teaches transmitting traffic and pilot signals on a reverse link, transmitting a PSMM on a reverse link, and establishing traffic and control signals symmetrically. The establishment of symmetric traffic and control signals simply “implies that dedicated traffic channel on the reverse link will have an associated dedicated power control channel on the forward link to control the mobile unit’s transmit power level” (col. 15, line 65 to col. 16, line 2). Contrary to the examiner’s assertions, one skilled in the art would not equate any of these teachings to “transmitting one or more traffic channel signals from the mobile station at one or more power gains directly or indirectly relative to the transmit power of the pilot signal” (emphasis added), as required by independent claims 1 and 14. Thus, for this reason as well, Kumar fails to provide the teachings on which the §103 rejection fundamentally depends.

While, the examiner concedes that Kumar does not teach receiving the claimed reception quality feedback from one or more remote transceivers for the one or more traffic channels, as required by independent claims 1 and 14, the examiner asserts that Nobukiyo solves Kumar’s deficiency. Contrary to the examiner’s interpretation, Nobukiyo teaches receiving a downlink signal at the mobile station and generating a measurement of the reception quality of the downlink signal. Such measurement generation at the mobile station and transmission from the mobile station is not equivalent to the claimed limitation of receiving quality feedback at the mobile station. Thus, Nobukiyo also fails to provide the teachings on which the §103 rejection fundamentally depends.

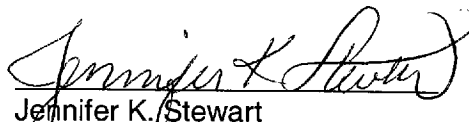
Lastly, there is no motivation to combine any of the cited references because one skilled in the art would not be motivated to combine the downlink power control of Nobukiyo or Chaponniere with the uplink power control of Kumar. Chaponniere generally refers to a reverse link structure that includes a reverse power control sub-channel for controlling gain levels of a forward (downlink) signal (see col. 7, line 62 to col. 8, line 15). Thus, Chaponniere supports

downlink power control. Further, the uplink control channels discussed in Nobukiyo are solely used to control downlink transmissions (see col. 2, ll. 31 – 32). Nobukiyo does refer to reducing power consumption and interference in the uplink (col. 9, ll. 1 – 12 of Nobukiyo), but this reference is directed to the release of the uplink control channel when quality information is no longer being transmitted (see col. 9, ll. 7 – 12). Such remarks have nothing to do with the actual power control of an uplink channel. Thus, Nobukiyo also refers to downlink power control. For at least these reasons, Nobukiyo and Chaponniere are not concerned with the same power control problems as Kumar. For at least this reason, the cited references have unrelated solutions, and one skilled in the art would not be motivated to combine these references. Further, because of the above-stated and previously described differences, it is unclear how one would or could modify Kumar to accommodate the teachings of Nobukiyo and/or Chaponniere. For at least these reasons, the §103 rejections cited against claims 1, 14, 25, and 39 fail as a matter of law.

In light of the above remarks, the applicants submit that pending claims 1 – 52 are new and non-obvious over the cited art, and respectfully request that the examiner withdraw all pending rejections. If any issues are not addressed by this response, the applicants request that the examiner call the undersigned so that any such issues may be expeditiously resolved.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.


Jennifer K. Stewart
Registration No.: 53,639

Dated: 9 November 2007

1400 Crescent Green, Suite 300
Cary, NC 27518

Telephone: (919) 854-1844
Facsimile: (919) 854-2084